

DAYLE ELIESON
United States Attorney
DANIEL J. COWHIG
Assistant United States Attorney
United States Attorney's Office
District of Nevada
501 Las Vegas Boulevard South, Suite 1100
Las Vegas, Nevada 89101
(702) 388-6336 / Fax: (702) 388-6020
daniel.cowhig@usdoj.gov

Representing the United States of America

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,)
Plaintiff,) Case No. 2:17-cr-15-RFB
vs.)
DUSTIN W. HOLDEN,) PROPOSED ORDER MODIFYING
Defendant.) CONDITIONS OF RELEASE PENDING
) PROBATION REVOCATION HEARING
) AND TEMPORARILY SUSPENDING AN
) ADDITIONAL PROBATION TERM

CERTIFICATION

This proposed order is timely submitted in accordance with this Honorable Court's January 23, 2017 order from the bench. The parties have conferred regarding this filing. Counsel for defendant HOLDEN does not oppose the proposed order.

SUMMARY

The United States of America, by and through Dayle Elieson, United States Attorney, and Daniel J. Cowhig, Assistant United States Attorney, at the direction of this Honorable Court of this

1 date, submits the attached Proposed Order Modifying Conditions of Release Pending Probation
2 Revocation Hearing and Temporarily Suspending an Additional Probation Term.

3 PROCEDURAL CONTEXT

4 On March 23, 2017, in accordance with a Plea Agreement, ECF 7, defendant DUSTIN W.
5 HOLDEN pleaded guilty to Accessing a Protected Computer to Defraud and Obtain Something of
6 Value in violation of Title 18, United States Code Section 1030(a)(4) under a one-count Criminal
7 Information, ECF 5.

8 On July 27, 2017, this Honorable Court sentenced defendant HOLDEN to a five-year term
9 of probation. ECF 18. This Court ordered as one Additional Probation Term, among others, that
10 defendant HOLDEN “be confined in custody on intermittent confinement three weekends per
11 month for [the] first year of probation.” *Id.*

12 On September 27, 2017, the United States Probation Office petitioned this Honorable Court
13 for warrant because defendant HOLDEN had not complied with the Additional Probation Term of
14 intermittent confinement. ECF 19. The United States Probation Office then filed an addendum.
15 ECF 20. This Honorable Court issued a warrant on September 29, 2017. ECF 21.

16 Defendant HOLDEN was arrested in the Northern District of Georgia on October 6, 2017.
17 ECF 24. The presiding Magistrate Judge released defendant HOLDEN on an unsecured bond,
18 ordering defendant HOLDEN to appear on the petition in the District of Nevada, and imposing
19 various conditions. *Id.* at 26 and 28. Among those conditions was that defendant HOLDEN
20 “comply w/ all conditions of probation imposed in D. Nev. case.” *Id.* at 30.

21 On October 26, 2017, defendant HOLDEN made his Initial Appearance on the petition.
22 ECF 28. Pending the revocation hearing, the Court continued defendant HOLDEN on the existing
23 conditions of supervised release, including the conditions imposed in the Northern District of
24 Georgia, and set the revocation hearing for November 17, 2017. *Id.*

Following a substitution of counsel, the parties sought a continuance. ECF 34. This Honorable Court granted that continuance. ECF 35.

On January 23, 2018, defendant HOLDEN appeared before this Honorable Court in a Probation Revocation Hearing. ECF 38. On motion of defendant HOLDEN, the Court continued the Probation Revocation Hearing until April 5, 2018, to allow defendant HOLDEN the opportunity to make a filing in response to the petition and addendum.

The United States and the United States Probation Office for the District of Nevada requested this Honorable Court modify defendant HOLDEN's conditions of release pending the adjudication of the petition and addendum, placing defendant HOLDEN in home confinement with location monitoring, leaving to the discretion of the supervising Probation Officer in the Northern District of Georgia to approve a range of departures. Because concurrent location monitoring and intermittent confinement would present significant practical challenges, the Probation Office also requested this Honorable Court suspend the Additional Probation Term ordering intermittent confinement from the date of the order until the date of the revocation hearing.

This Honorable Court directed the United States submit a Proposed Order reflecting the Probation Office's preferred language to accomplish the Court's intent.

The undersigned counsel has coordinated with the Probation Office. The resulting Proposed Order is attached.

DATED: January 25, 2018

DAYLE ELIESON
United States Attorney

/s/
DANIEL J. COWHIG
Assistant United States Attorney

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,)
Plaintiff,) Case No. 2:17-cr-15-RFB
vs.)
DUSTIN W. HOLDEN,) [PROPOSED] ORDER MODIFYING
Defendant.) CONDITIONS OF RELEASE PENDING
) PROBATION REVOCATION HEARING
) AND TEMPORARILY SUSPENDING AN
) ADDITIONAL PROBATION TERM

ORDER

IT IS ORDERED that pending the Probation Revocation Hearing, the Order Setting Conditions of Release is modified by the addition of the following conditions, effective upon the defendant's return to the Northern District of Georgia:

Home Confinement with Location Monitoring - You will be monitored by the form of location monitoring technology indicated below, and must follow the rules and regulations of the

1 location monitoring program. You must pay 100% of the costs of the program, based upon ability
2 to pay:

3 - Location monitoring technology at the discretion of the probation officer.

4 This form of location monitoring technology will be used to monitor the following
5 restriction on your movement in the community:

6 - You are restricted to your residence at all times except for employment; education;
7 religious services; child care and custody; medical, substance abuse, or mental health
8 treatment; attorney visits; court appearances; court-ordered obligations; or other
9 activities as pre-approved by the probation officer (Home Detention).

10 IT IS FURTHER ORDERED that the Additional Probation Term ordering intermittent confinement
11 is suspended from the date of this order until the date of the revocation hearing.

12 IT IS SO ORDERED this January 26, 2018.

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16 THE HONORABLE RICHARD F. BOULWARE II
17 UNITED STATES DISTRICT JUDGE
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CERTIFICATE OF SERVICE

I, Daniel J. Cowhig, certify that the following individual was served with a copy of the
Proposed Order Modifying Conditions of Release Pending Probation Revocation Hearing and
Temporarily Suspending an Additional Probation Term on this date by Electronic Case File system:

Rebecca Levy
Counsel for Dustin W. Holden
Office of the Federal Public Defender
411 East Bonneville, Suite 250
Las Vegas, Nevada 89101
(702) 388-6577/Phone
(702) 388-6261/Fax
rebecca_levy@fd.org

January 25, 2018

/s/
